

MONTANA LEGISLATIVE HISTORY

Chapter 148 19 79

Bill H _____ S 148 Original bill & history C

H. Committee on Business & Industry

Hearing Date(s) Feb 28 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out Feb 28 ☒ C

S. Committee on Business & Industry

Hearing Date(s) Feb 03 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Feb 03 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1 *Sen. J. Bowen* BILL NO. *148*
 2 INTRODUCED BY *J. Bowen* *Norman*
 3 BY REQUEST OF THE ATTORNEY GENERAL *Benson*

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
 6 RELEASE OF INFORMATION IN THE POSSESSION OF INSURERS
 7 RELATING TO FIRE LOSSES; REQUIRING INSURERS TO NOTIFY
 8 APPROPRIATE AGENCIES OF SUSPICIOUS FIRE LOSSES; EXEMPTING
 9 INSURERS FROM CIVIL LIABILITY FOR FURNISHING SUCH
 10 INFORMATION OR NOTIFYING AN AGENCY; PROVIDING FOR
 11 CONFIDENTIALITY OF RELEASED INFORMATION; PROVIDING FOR
 12 TESTIMONY BY AGENCY PERSONNEL IN CIVIL ACTIONS; AND AMENDING
 13 SECTION 50-3-102, MCA."

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 NEW SECTION. Section 1. Insurer to provide
 17 information regarding fire loss to certain agencies upon
 18 request. Each insurer engaged in issuing fire insurance
 19 policies in the state of Montana shall upon written request
 20 of any appropriate law enforcement or fire protection agency
 21 release to the requesting agency all information in its
 22 possession relating to a fire loss of real or personal
 23 property. The information may include but is not limited to:

24 (1) any insurance policy relevant to the fire loss
 25 under investigation and any application for such a policy;

1 (2) premium payment records;
 2 (3) the history of previous claims made by the insured
 3 for fire loss;
 4 (4) material relating to the investigation of the
 5 loss, including statements of any person, proof of loss, and
 6 other relevant evidence.

7 NEW SECTION. Section 2. Insurer to report suspicious
 8 fires. Whenever an insurer has reason to believe that a fire
 9 loss in which it has an interest may be of other than
 10 accidental cause, it shall notify an appropriate law
 11 enforcement or fire protection agency and provide such
 12 agency with all material developed from its inquiry into the
 13 fire loss.

14 NEW SECTION. Section 3. Agencies to keep information
 15 confidential. The agencies and agency personnel receiving
 16 information furnished pursuant to [sections 1 through 5]
 17 shall hold the information in confidence until such time as
 18 its release is required pursuant to a criminal or civil
 19 proceeding.

20 NEW SECTION. Section 4. Testimony of agency personnel
 21 in action to recover under insurance policy. Law enforcement
 22 and fire protection agency personnel may be required to
 23 testify as to any information in their possession regarding
 24 the fire loss of real or personal property in any civil
 25 action in which a person seeks recovery from an insurer

1 under a policy for the fire loss.

2 **NEW SECTION.** Section 5. Exemption of insurer from
3 liability. In the absence of fraud or bad faith the insurer
4 or person who furnished information on its behalf is not
5 subject to liability in any civil action for:

6 (1) furnishing information as required by [section 1];
7 or

8 (2) notifying an appropriate agency of a fire loss as
9 required by [section 2].

10 Section 6. Section 50-3-102, MCA, is amended to read:

11 "50-3-102. Powers and duties of state fire marshal.

12 (1) For the purpose of reducing the state's fire loss, the
13 state fire marshal shall:

14 (a) make at least one inspection a year of each state
15 institution and submit a copy of the report to the
16 department of institutions with recommendations in regard to
17 fire prevention, fire protection, and public safety;

18 (b) make at least one inspection a year of each unit
19 of the Montana university system and submit a copy of the
20 report to the commissioner of higher education with
21 recommendations in regard to fire prevention, fire
22 protection, and public safety;

23 (c) inspect public, business, or industrial buildings
24 and require conformance to law and rules promulgated under
25 the provisions of this chapter;

1 (d) assist local fire and law enforcement authorities
2 in arson investigations and supervise such investigations
3 when, in his judgment, supervision is necessary;

4 (e) review all training programs on investigation of
5 accidental and incendiary fires;

6 (f) provide fire prevention and fire protection
7 information to public officials and the general public;

8 (g) encourage and assist local fire authorities in
9 fire prevention programs and adopt standards and implement a
10 program to encourage fire departments to meet such
11 standards;

12 (h) be the state entity primarily responsible for
13 promoting fire safety at the state level and to represent
14 the state in structural fire matters;

15 (i) encourage coordination of all services and
16 agencies in structural fire matters to reduce duplication
17 and fill voids in services;

18 (j) establish rules concerning responsibilities and
19 procedures to be followed when there is a threat of
20 explosive material in a building housing state offices;

21 (k) keep in his office a record of all fires occurring
22 in the state, the origin of the fires, and all facts,
23 statistics, and circumstances relating thereto which have
24 been determined by investigations under the provisions of
25 chapter 63 of this title; and, except for the testimony

1 given during an investigation and except as provided in
2 [section 5], the record shall be open at all times to public
3 inspection; and

4 (1) make an annual report to the attorney general
5 containing a detailed statement of his official action and
6 the transactions of his department, and the attorney general
7 shall, in turn, submit the report to the governor with such
8 recommendations and comments thereon as he considers
9 necessary.

10 (2) The state fire marshal may:

11 (a) adopt rules necessary for safeguarding life and
12 property from the hazards of fire and explosion and carrying
13 into effect the fire prevention laws of this state; and

14 (b) if necessary to safeguard life and property under
15 rules promulgated pursuant to this section, maintain an
16 action to enjoin the use of all or a portion of a building
17 or restrain a specific activity until there is compliance
18 with the rules."

-End-

SB 148

MINUTES OF THE MEETING
BUSINESS & INDUSTRY COMMITTEE
MONTANA STATE SENATE

February 3, 1979

The meeting of the Business and Industry Committee was called to order by Chairman Frank Hazelbaker on the above date in Room 404 of the State Capitol Building at 10:00 a.m.

ROLL CALL: All members were present with the exception of Senator Blaylock who was excused.

SENATE BILL 272: Senator Lowe, sponsor of SB 272, stated this bill is an act amending section 18-1-202, MCA, to amend the bid security requirements for a bid for the purchase of indebtedness.

Senator Lowe called on Mr. Tom Harrison, representing D. A. Davidson & Co., to explain the bill further.

Mr. Harrison in turn called on Mr. Bruce McKenzie also representing D. A. Davidson & Co. to explain the bill to the Committee.

There were no opponents of the bill.

DISPOSITION OF SENATE BILL 272: Senator Lowe moved Senate Bill 272 DO PASS. There was a second to the motion by Senator Goodover. The bill passed unanimously.

SENATE BILL 148: Chairman Hazelbaker introduced Mr. Mike McGrath of the Attorney General's Office to explain SB 148 to the Committee.

Mr. McGrath stated SB 148 is an act to provide for the release of information in the possession of insurers relating to fire losses; requiring insurers to notify appropriate agencies of suspicious fire losses; exempting insurers from civil liability for furnishing such information or notifying an agency; providing for confidentiality of released information; providing for testimony by agency personnel in civil actions; and amending section 50-3-102, MCA.

Mr. McGrath also proposed some amendments to SB 148. These amendments are attached.

Mr. McGrath introduced Bob Kelly, State Fire Marshall, who spoke in support of SB 148.

Other proponents of SB 148 who gave brief statements were:

Mr. Art Korn, representing Montana State Volunteer Firemen's Association

Mr. Dave Fisher of the Montana Fire Chief's Association

Mr. Al Sampson, of Missoula, representing the Montana Fire Chief's Association

Mr. Robert Ellis, representing the Montana State Volunteer
Firemen's Association

Mr. Boyce Clarke, representing the Independent Insurance
Agents of Montana. (His testimony is attached.)

There were no opponents to SB 148.

Mr. Kelly stated this is a model law put out by the insurance
companies. It is a proposal that comes from the insurance
companies.

Senator Regan asked about the press' "right to know," regarding
this bill.

Mr. Kelly stated he thought the amendment would take care of
this satisfactorily.

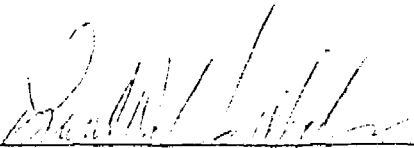
Senator Lowe asked about arson investigation teams in the state.
Mr. Kelly stated there were arson investigating teams in the
state, and their work had been quite successful; however, the
conviction rate is quite low.

Mr. McGrath stated there is not a crime that is more difficult
to get a conviction on than arson.

DISPOSITION OF SENATE BILL 148: Senator Dover moved the Committee
adopt the amendments. The amendments were adopted unanimously
after the Committee instructed Mr. McGrath to get together with
our staff attorney, Bob Pyfer, to be certain language is correct
in the amendments. The amendments were adopted unanimously.

Senator Goodover moved the bill DO PASS as amended. Senator
Peterson seconded the motion. The bill passed unanimously.

ADJOURN: There being no further business, the meeting was
adjourned at 11:00 a.m.



Sen. Frank Hazelbaker, Chairman

BUSINESS & INDUSTRY COMMITTEE

Date Feb. 3

[illegible]

Senate Bill No. 148, introduced copy is amended as follows:

1. Page 2, line 15.
Following: "The"
Insert: "insured's right of individual privacy allows"
2. Page 2, line 16.
Following: "1"
Strike: "through 5"
Insert: "and 2"
3. Page 2, line 17.
Following: line 16
Strike: "shall"
Insert: "to"
Following: "confidence"
Strike: "until such time as"
Insert: "unless:
 (1) the insured waives his right of individual
 privacy; or
 (2) "
4. Page 2, line 18.
Strike: "its"
Following: "release"
Insert: "of the information"
5. Page 4, line 25.
Following: "for"
Strike: "the testimony"
Insert: "statements of witnesses"
6. Page 5, line 1.
Following: "and"
Strike: "except as provided in"
Insert: "information to be held in confidence under"
7. Page 5, line 2.
Following: "section"
Strike: "5"
Insert: "3"

NAME: M M'GRATH DATE: 2/3/79

ADDRESS: OFFICE OF ATTY GENL

PHONE: 449-2026

REPRESENTING WHOM? ATTY GENL

APPEARING ON WHICH PROPOSAL: 50148

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Robert E Kelly DATE: 2/3/79

ADDRESS: 2408 Helena Ave.

PHONE: 449 - 2050

REPRESENTING WHOM? State Fire Marshal

APPEARING ON WHICH PROPOSAL: S.B. 148

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

S.B. 148 will allow insurance
companies to share information or
records they possess with fire and
law enforcement officials to combat
the crime of arson.

NAME: ART KOBAL DATE: 2/3/79

ADDRESS: 1916 SO WASH. ST BOZTE

PHONE: 723-4601

REPRESENTING WHOM? MONT. STATE VOL. FIREMEN'S ASSOC.

APPEARING ON WHICH PROPOSAL: S B. 148

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: James D. Smith DATE: 2-3-77

ADDRESS: 1918 S. Main St. Suite 100

PHONE: 792 - 5555

REPRESENTING WHOM? Montana Iron Works

APPEARING ON WHICH PROPOSAL: SB 14/c

DO YOU: SUPPORT? / AMEND? OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: AL Sampson DATE: 2-3-79

ADDRESS: 828 Rollin Missoula, MT

PHONE: _____

REPRESENTING WHOM? Mont State Fire Chiefs

ab. Missoula Fire Dept.

APPEARING ON WHICH PROPOSAL: SB 148

DO YOU: SUPPORT? ☒ AMEND? _____ OPPOSE? _____

COMMENTS: Support with Amendments

This should help control
the arson problem in
Montana.

NAME: Robert F. Ellis DATE: 2/3/79

ADDRESS: 1735 Sierra Rd E Helena MT

PHONE: 458-5556 59601

REPRESENTING WHOM? Montana State Lab. - (Newman Flanagan)

APPEARING ON WHICH PROPOSAL: SB 149

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: W. Boyco Clarke DATE: 3 Feb 79

ADDRESS: 3174 Vigilante Tr. Helena, MT 59601

PHONE: 442-6778

REPRESENTING WHOM? Independent Insurance Agents of Montana

APPEARING ON WHICH PROPOSAL: SB-148

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: Repeal with testimony

February 3, 1979

Mr. Chairman, and members of the Committee.

For the record, I am Boyce Clarke, representing Independent Insurance Agents of Montana.

Prior to the present Legislative Session, I made a trip completely around the state and met with legislators and local independent agents in eleven communities. Many subjects were discussed, but particularly in Butte, Missoula, Kalispell and Great Falls, the problem of arson received top billing. The day^{we} were in Great Falls, a newscast reported an arson fire in one of the public schools and the report went on to say that was the fourth case of arson sustained in the Great Fall schools since the start of the fall term.

In Missoula, Mr John Hayden, head of Glacier General Insurance Group almost implored the creation of legislation to allow insurance companies to investigate suspicious fire losses without the fear of suit for libel and invasion of privacy. You are all probably aware of the extreme difficulty in proving arson under any circumstances, and to be subjected to the fear of litigation upon investigation and discussion of the circumstances, removes all interest in pursuing the case.

Nationally, arson has now become a so called Class I crime. There has been much television focus on the insidious arson plague, particularly in the cities. We believe the enactment of the legislation contained in this bill will ease the fear of legal reprisal in reporting and sharing investigative data by the insurance companies with duly authorized agencies such as the Fire Marshall's office.

Thank you.



*Submitted to Committee
by Mr. Al Hansen, Missouri*

MODEL ARSON REPORTING - IMMUNITY LAW

--The Need and Purpose

With increasing frequency, arson investigators and criminal prosecutors are recognizing the value of information contained in policy writing and claim files of insurers of property which appear to have been "torched." Failing to realize that there are legal and contractual constraints against companies freely releasing this information, investigators and prosecutors are complaining that insurers are being uncooperative or are refusing to share the information with authorities. Most insurers are eager to assist authorities but, for their protection and the protection of their innocent insureds, will release the needed information only under subpoena.

The insurance industry acknowledges the value of this information to law enforcement authorities. The files contain all the data needed to prepare the insurance policy, the dates and amounts of policyholder's insurance transactions as well as the premium payment record of the insured. The files may also contain applications or declarations signed by the insured, appraisals of the property as well as copies of reports made by the company inspectors. The file may also contain the history of prior claims made by the insured. The claim file will contain the claim adjuster's reports, statements of the insured and possibly statements of witnesses. It may contain pictures and analytical reports prepared by consultants. Before the claim

is paid, the file will contain a Proof of Loss, a legal document signed by the insured, witnessed or notarized and which contains detailed data concerning the cause of loss, the value of the property destroyed and the amount of reimbursement claimed by the insured.

The New York Standard Fire Insurance Policy in use in most states affords insurers the right to examine the books and accounts of the insured and to examine the damaged property as often as may be reasonably required. The policy, also, requires the insured, as often as may be reasonably required, to submit to examinations under oath by any person designated by the company. Additional information developed by the company using these contractual rights could be available to law enforcement authorities if state laws would permit.

Because some of the information in the company files may be unsubstantiated or unproven, even the most cooperative company will be reluctant to provide--much less voluntarily pass--this information to law enforcement authorities. Imprudent disclosure of the information or use of the information in an unsuccessful criminal proceeding could result in criminal charges being made against the insurer or, as is more often the case, a civil action being filed which seeks and can result in judgments against the insurer for punitive damages. Punitive damages awards are in addition to policy limits or claim payments and, though rare, have resulted in judgments against insurers. Fear of legal harassment and unfounded charges of punitive action cause insurers presently to resist the free exchange of information

with law enforcement authorities.

The National Fire Prevention and Control Administration held leadership seminars for developing a coordinated attack on arson during January and February, 1976. The seminars were attended by thirty-six concerned citizens and experts in the field of arson and representing the many disciplines whose work and expertise bear on the total arson problem. The report of the seminar, "Arson: America's Malignant Crime", recommended a legal committee be formed and that "the first order of business-- (be) developing recommended legislation for submission to states which would provide appropriate immunity to insurance companies which share arson-related information with public authorities."

The Ohio legislature enacted such legislation in 1976. During 1977, reporting immunity legislation was enacted in the states of Connecticut, Georgia, Illinois, New York, North Carolina and Texas. Similar legislation was considered by failed to be enacted in nine other states during the past two legislative years. Many of the bills failed because they were poorly conceived or drafted; other created jurisdictional problems among responsible agencies; while some would have increased the legal problems of the cooperating insurance companies.

These bills, as well as those already enacted, have been studied and reviewed by the Alliance and its affiliate, the Property Loss Research Bureau. Procedures developed for implementing the laws that have been enacted and some of the unforeseen problems have also been scrutinized. The Alliance-PLRB model law includes the provisions found to be necessary

ingredients in these laws if they are to be effective and avoid the problems which are now resulting from the first attempt at legislation in this area.

Insurers must be obliged to report suspicious fires only to the proper law enforcement authorities. Arson may not be evident at the time of the fire and escape identification by the fire fighters. The possibility of an incendiary fire may become evident only when the insurance claim adjuster views the damage, questions the insured or begins preparing the inventory of damaged property. The model law would require that the investigative authorities be informed of fires suspected of resulting from other than accidental causes.

If insurers are to resist fraud arson and to take the "profit out of arson," the insurer and arson investigating official should freely and without legal encumbrance be able to exchange information developed during their separate investigations. Information developed independently by the law enforcement agencies could be very useful to an insurance company investigating suspected arson. The model law would authorize access to and use of the information developed by the law enforcement agency and would serve to increase the flow of vital investigative information between the insurer and a law enforcement agency, as well as between appropriate law enforcement agencies. Mild reservations have been expressed concerning the two-way exchange provisions which have been included in the model bill. However, the entire trend of procedural law is toward unfettered exchange of information. Whatever risk is

inherent in the two-way or reciprocity provision is outweighed by the fact that the model bill would provide a specific means of accessibility to an insurer which otherwise might be compelled to reach its decision with less than complete information. Knowledgeable attorneys, who assisted in the drafting of the model bill, believe the two-way provision should cause no problem and that the provision should be retained in the model law.

In any criminal investigation it is vital that the investigators have access to any information that may be relevant to the case under investigation. Much of the information developed by insurance investigators and which is lodged in company claim files may be unproven and unsubstantiated, at least early in the investigation. It may, also, be exactly the information needed by authorities to develop leads and other incriminating evidence. This information may never reach the proper authorities, because of legal problems if the insurers must first verify or substantiate the facts before providing the information to the authorities.

To encourage the free flow of all information that may be relevant to the investigation, the insurer must be protected from legal action or harassment and judgments for punitive damages. The insurer must be provided immunity from civil action or criminal prosecution for any information it provides in good faith to investigative authorities if the mutual aid and assistance program is to be successful and operate in the cooperative spirit intended. Without immunity, however, insurers

will be obligated to withhold all but proven facts and data.

Because of the sensitive nature of the information developed during an arson investigation, it is necessary that the material and information be held confidential until it is required pursuant to a criminal or civil proceeding. Both the investigative or prosecuting authorities and insurance company personnel must be held accountable for the premature or improper release of the confidential information.

If fraud arson and arson-for-profit schemes are to be curtailed or controlled, insurers and law enforcement officials must be legally authorized and empowered to mutually aid and assist one another. Only when the full resources of the investigations of both the private insurance industry and the law enforcement agencies are combined in a legally concerted program of detection and prosecution can we hope to reduce the crime of arson, America's Malignant Crime.

"Protecting the Big Sky Country"

MONTANA STATE FIRE CHIEFS' ASSOCIATION

P.O. BOX 1704

HELENA, MONTANA 59601

OFFICE OF SECRETARY-TREASURER
1729 NINTH AVENUE

PHONE (406) 442-6758



February 2, 1979

TO: Senator Hazelbaker, Chairman
Business and Industry

FROM: Jack Reed, President
Montana State Fire Chiefs' Association

SUBJECT: Senate Bill #148

Dear Senator:

This is to inform you that the Montana Fire Chiefs and the Montana State Fire Chiefs' Association has endorsed and supports Senate Bill #148.

We feel it is much needed legislation and should help control the arson problem in the State of Montana.

Sincerely yours,

A handwritten signature in cursive script that reads "Jack Reed". The signature is fluid and appears to be written in ink.

Jack Reed
President
Montana State Fire Chiefs' Association

JR:med

SENATE *Business & Industry* COMMITTEE

BILL 148+ 272-

VISITORS' REGISTER

DATE 2/3/79

Please note bill no.

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

STANDING COMMITTEE REPORT

February 6 19 79

MR. President:

We, your committee on Business and Industry

having had under consideration Senate Bill No. 148

WURE-S

Respectfully report as follows: That Senate Bill No. 148, introduced bill, be amended as follows:

1. Page 2, line 15.

Following: "The"

Insert: "insured's right of individual privacy allows"

2. Page 2, line 16.

Following: "1"

Strike: "through 5"

Insert: "and 2"

3. Page 2, line 17.

Following: line 16

Strike: "shall"

Insert: "to"

Following: "confidence"

Strike: "until such time as"

~~XXXXXX~~
DO PASS

CONTINUED

February 6 19 79

4. Page 2, line 18.

Following: line 17

Insert: "unless:

(1) the insured waives his right of individual privacy; or"

5. Page 2, line 18.

Following: line 17

Strike: "its"

Following: "relesse"

Insert: "of the information"

6. Page 2, line 19.

Following: line 17

Insert:

"(2)"

7. Page 4, line 25.

Following: "for"

Strike: "the testimony"

Insert: "statements of witnesses"

8. Page 5, line 1.

Following: "and"

Strike: "except as provided in"

Insert: "information that may be held in confidence under"

9. Page 5, line 2.

Following: "section"

Strike: "5"

Insert: "3"

And, as so amended,
DO PASS

SB 139 cont.

James T. Harrison, Blue Shield MPS, testified against SB 139. He said the bill ought to clarify that this "Title" only applies to chapters 1 - 26. He stated that the bill should clarify that the provisions specifically do not apply to "Blues". "Blues" entities are non-profit and not intended to be covered by the Montana Insurance code. He said the bill as written will cause litigation regarding whether "Blues" are subject to the Insurance Code.

Questions from the committee followed.

Rep. Hazelbaker closed on SB 139.

SB 148

Senator Hazelbaker, sponsor, introduced the bill at the request of the Attorney General. The bill would provide for the release of information in the possession of insurers relating to fire losses and requiring insurers to notify appropriate agencies of suspicious fire losses; exempting insurers from civil liability for furnishing such information.

Mr. Boyce Clarke, Independent Insurance Agents of Mt., spoke in favor of the bill. Copy of his written testimony is attached.

Mr. Glen Drake also endorsed the bill. He said this would enable a person to give information to the fire marshall without fear of reprisal.

Reta Theisen, Mt. Ins. Dept., stated she concurred with statements made by other proponents.

There were no opponents.

Questions from the committee followed.

Senator Hazelbaker closed on SB 148.

SB 157

Senator Smith, sponsor, explained the bill to the committee.

Thomas Tucker, Deputy Secretary of State, explained the different sections of the bill. His testimony was documented from the attached summary sheet.

There were no opponents to SB 157.

Questions from the committee followed.

Senator Smith closed on SB 157.

EXECUTIVE SESSION

SB 32

Rep. Spilker pointed out that the statement of intent had a typographical error on line 15 the word industry is spelled wrong. Chairman Quilici said that it could be taken care of as a clerical error on the floor.

Rep. Kessler made a motion that SB 32 BE CONCURRED IN. Discussion followed. A vote was called and carried unanimously. Rep. Kessler was appointed to carry SB 32 on the floor.

SB 34

Rep. Ellison made a motion that SB 34 BE CONCURRED IN. Discussion on the motion followed. A vote was taken and carried 14- 3 with 2 absent. Rep. Robbins was appointed to carry the bill.

SB 139

Rep. Frates moved that SB 139 BE CONCURRED IN. Following discussion a vote was taken and carried unanimously. Rep. Nathe was appointed to carry the bill in the House. Rep. Nathe moved the bill be placed on the consent calendar however the motion was objected to.

SB 148

Rep. Cooney made the motion that SB 148 BE CONCURRED IN. The motion was discussed. A vote was taken and carried unanimously. Rep. Cooney moved that SB 148 be placed on the consent calendar but there was objection to the motion. Rep. Cooney was appointed to carry the bill.

SB 157

Rep. Nathe moved that SB 157 BE CONCURRED IN. Discussion on the motion followed. A vote was taken and carried unanimously. Rep. Nathe will carry the bill.

Motion was made and seconded to adjourn.

Meeting adjourned at 10:35

Respectfully submitted,


JOE QUILICI, Chairman

SENATE BILL NO. 148

INTRODUCED BY HAZELBAKER, S. BROWN,

NORMAN, PETERSON

BY REQUEST OF THE ATTORNEY GENERAL

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE RELEASE OF INFORMATION IN THE POSSESSION OF INSURERS RELATING TO FIRE LOSSES; REQUIRING INSURERS TO NOTIFY APPROPRIATE AGENCIES OF SUSPICIOUS FIRE LOSSES; EXEMPTING INSURERS FROM CIVIL LIABILITY FOR FURNISHING SUCH INFORMATION OR NOTIFYING AN AGENCY; PROVIDING FOR CONFIDENTIALITY OF RELEASED INFORMATION; PROVIDING FOR TESTIMONY BY AGENCY PERSONNEL IN CIVIL ACTIONS; AND AMENDING SECTION 50-3-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Insurer to provide information regarding fire loss to certain agencies upon request. Each insurer engaged in issuing fire insurance policies in the state of Montana shall upon written request of any appropriate law enforcement or fire protection agency release to the requesting agency all information in its possession relating to a fire loss of real or personal property. The information may include but is not limited to:

(1) any insurance policy relevant to the fire loss

under investigation and any application for such a policy;

(2) premium payment records;

(3) the history of previous claims made by the insured for fire loss;

(4) material relating to the investigation of the loss, including statements of any person, proof of loss, and other relevant evidence.

NEW SECTION. Section 2. Insurer to report suspicious fires. Whenever an insurer has reason to believe that a fire loss in which it has an interest may be of other than accidental cause, it shall notify an appropriate law enforcement or fire protection agency and provide such agency with all material developed from its inquiry into the fire loss.

NEW SECTION. Section 3. Agencies to keep information confidential. The INSURED'S RIGHT OF INDIVIDUAL PRIVACY ~~ARTICLE 5~~ REQUIRES agencies and agency personnel receiving information furnished pursuant to [sections 1 through-5 AND 2] ~~shall~~ to hold the information in confidence ~~until--such~~ time-as UNLESS:

(1) THE INSURED WAIVES HIS RIGHT OF INDIVIDUAL PRIVACY; OR

(2) its release OF THE INFORMATION is required pursuant to a criminal or civil proceeding.

NEW SECTION. Section 4. Testimony of agency personnel

in action to recover under insurance policy. Law enforcement and fire protection agency personnel may be required to testify as to any information in their possession regarding the fire loss of real or personal property in any civil action in which a person seeks recovery from an insurer under a policy for the fire loss.

NEW SECTION. Section 5. Exemption of insurer from liability. In the absence of fraud or bad faith the insurer or person who furnished information on its behalf is not subject to liability in any civil action for:

(1) furnishing information as required by [section 1];

or

(2) notifying an appropriate agency of a fire loss as required by [section 2].

Section 6. Section 50-3-102, MCA, is amended to read:

"50-3-102. Powers and duties of state fire marshal.

(1) For the purpose of reducing the state's fire loss, the state fire marshal shall:

(a) make at least one inspection a year of each state institution and submit a copy of the report to the department of institutions with recommendations in regard to fire prevention, fire protection, and public safety;

(b) make at least one inspection a year of each unit of the Montana university system and submit a copy of the report to the commissioner of higher education with

recommendations in regard to fire prevention, fire protection, and public safety;

(c) inspect public, business, or industrial buildings and require conformance to law and rules promulgated under the provisions of this chapter;

(d) assist local fire and law enforcement authorities in arson investigations and supervise such investigations when, in his judgment, supervision is necessary;

(e) review all training programs on investigation of accidental and incendiary fires;

(f) provide fire prevention and fire protection information to public officials and the general public;

(g) encourage and assist local fire authorities in fire prevention programs and adopt standards and implement a program to encourage fire departments to meet such standards;

(h) be the state entity primarily responsible for promoting fire safety at the state level and to represent the state in structural fire matters;

(i) encourage coordination of all services and agencies in structural fire matters to reduce duplication and fill voids in services;

(j) establish rules concerning responsibilities and procedures to be followed when there is a threat of explosive material in a building housing state offices;

1 (k) keep in his office a record of all fires occurring
2 in the state, the origin of the fires, and all facts,
3 statistics, and circumstances relating thereto which have
4 been determined by investigations under the provisions of
5 chapter 63 of this title; and, except for the testimony
6 STATEMENTS OF WITNESSES given during an investigation and
7 except--as--provided--in INFORMATION THAT MAY BE HELD IN
8 CONFIDENCE UNDER [section 5 3], the record shall be open at
9 all times to public inspection; and

10 (l) make an annual report to the attorney general
11 containing a detailed statement of his official action and
12 the transactions of his department, and the attorney general
13 shall, in turn, submit the report to the governor with such
14 recommendations and comments thereon as he considers
15 necessary.

16 (2) The state fire marshal may:

17 (a) adopt rules necessary for safeguarding life and
18 property from the hazards of fire and explosion and carrying
19 into effect the fire prevention laws of this state; and

20 (b) if necessary to safeguard life and property under
21 rules promulgated pursuant to this section, maintain an
22 action to enjoin the use of all or a portion of a building
23 or restrain a specific activity until there is compliance
24 with the rules."

-End-